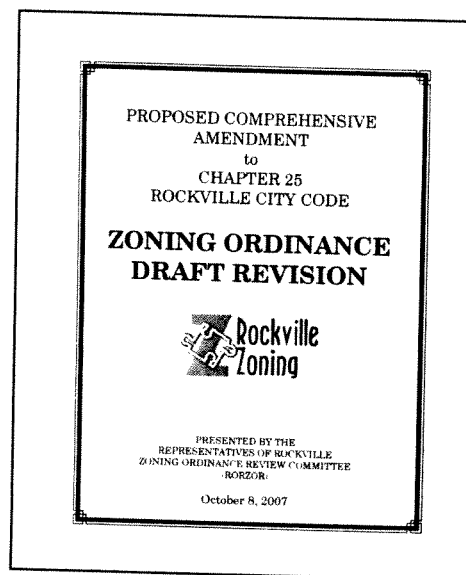


**CITY OF ROCKVILLE PLANNING DIVISION**  
**STAFF REPORT**  
January 11, 2008

**SUBJECT: Text Amendment TXT2007-00219 –**  
Proposed Comprehensive Revision  
To Chapter 25 of the City Code –  
Zoning and Planning Ordinance and  
**Map Amendment MAP2007-00101 –**  
Proposed Comprehensive  
City-wide Rezoning to Implement the  
Revised Zoning Ordinance

**Applicant:** Mayor and Council of Rockville

**Location:** City of Rockville



## **BACKGROUND**

In June of 2005, the Mayor and Council authorized staff to begin work on a comprehensive review of the City's Zoning Ordinance, or Chapter 25 of the City Code. Staff researched current planning issues and tools and then discussed their findings and recommendations in seven white papers and seven issue papers, which covered topics such as Land Uses, Parking, and Environmental Standards. Those papers were presented to the Mayor and Council during publicly broadcasted worksessions during the second half of 2005. The worksessions resulted in Mayor and Council direction and guidance for the first drafts of the Zoning Ordinance Revision that would be presented to a citizen's committee. In February 2006 the Mayor and Council appointed a committee consisting of citizens, Mayor and Council members, members from the Planning Commission and Board of Appeals, business owners, and a land use attorney to work with the staff to prepare the draft ordinance and map. This committee came to be known as the RORZOR (Representatives Of Rockville Zoning Ordinance Review) Committee.

Zoning is used to ensure that the uses, building forms and general design of an area are compatible. All of Rockville is divided into zones, which limit what uses are allowed (such as residential, commercial, institutional, or combinations thereof), as well as limiting how intense those uses can be. The proposed text amendment represents an entirely new draft zoning ordinance for the City. It is intended to replace the current Chapter 25 of the City Code, rather than just amend it.

In the Spring of 2006 the RORZOR Committee reviewed a draft outline of the proposed ordinance revision. Based on their input, the staff began work on drafting the actual language of the revised ordinance. The committee was reconvened in September, 2006 to begin review of the draft articles. Their review continued through 2006 and was completed in September, 2007. In addition to reviewing the draft articles for the draft ordinance, the committee also reviewed the proposed zoning map that would apply the proposed draft zones throughout the City.

## **DISCUSSION**

With the completion of the RORZOR Committee's first draft of the proposed ordinance, the Mayor and Council authorized the filing of the text and map amendments in order to begin the adoption process for the draft Zoning Ordinance. Since the filing authorization, the staff has engaged in a public outreach program to gather feedback from the public. This outreach program has included holding three public forums, presentations at civic associations, articles in Rockville Reports, posting on the City's website, and informational segments on the Rockville Cable Channel 11. The formal public process begins with the Planning Commission meetings to obtain input on the draft ordinance and map. There will be opportunities for public input through the public hearings before the Mayor and Council.

The document released on October 8 is the first draft of the Zoning Ordinance Revision. The authorization to file by the Mayor and Council does not constitute an endorsement of the draft ordinance, it merely starts the review and comment process. As a draft the content and text will undergo changes before it is finally adopted. Staff anticipates changes to the draft that would include the addition of more graphics, the addition of more definitions, and possibly some reorganization of the content. Additional changes to the text regarding development standards, uses, etc. are anticipated as recommended by the Planning Commission following their public sessions.

### **Why Revise the Ordinance?**

At the outset of this project, the intent of this effort was to address the following:

#### **1. The City's Values and Vision Have Changed.**

Some rules and regulations such as those regarding allowable densities have become outdated. The vision of the draft ordinance is now focused on:

- Improving how pedestrians experience their neighborhoods and city centers
- Where appropriate, allowing a mix of compatible uses that makes the City more sustainable
- Keeping the residential zones essentially the way they are regulated today

#### **2. The City Wishes to Raise Its Standards for the Built Environment.**

Although there is quality development in Rockville today, the current ordinance does not directly address the quality and character of development. The proposed ordinance will set explicit standards for a higher quality built environment and help protect the natural environment. Future construction, especially in the City's major development areas, will be held to the highest standards by requiring:

- Appropriately scaled and attractive buildings
- Designs that balance the needs of the pedestrians and not just automobiles
- Publicly-accessible open space
- Efficient and attractive parking facilities

- Safer, more inviting sidewalks
- Bicycle access and parking

**3. The City Needs to Ensure a Simple, Accessible and Transparent Review Process.**

Under the current zoning ordinance, Rockville's development process can be long and cumbersome. There are multiple paths that a development proposal can take, which is difficult for applicants and the public to follow. The revision will alleviate this by:

- Making the process for reviewing and approving development applications consistent
- Keeping the language easy to understand
- Requiring area (neighborhood) meetings before major development is proposed
- Providing clear instructions on how to implement draft standards in projects that have already been approved

**CHANGES:** The proposed draft ordinance borrows substantially from the current ordinance for basics such as establishment of various boards and commissions, processing of text and map amendments, and similar routine matters. What is draft and different is summarized as follows:

1. The single-unit detached (currently referred to as single-family) residential zones remain substantially the same as they currently exist, in terms of development standards and densities. However, there are two draft proposals that will affect development in these zones. The first is a limit on the building envelope which is regulated by limiting the height and floor area in the R-60, R-75 and R-90 zones. In these zones, building height is proposed to be limited to 32 feet, measured from the ground level at the front of the building to the peak of the roof. The floor area ratio (the ratio of the total floor area, excluding cellars, to the area of the lot) is limited to 0.35. Through special review procedures these limits may be raised to 35 feet of height and an FAR of 0.5. These special regulations are intended to control the development of over-size houses in existing residential neighborhoods.

The other proposed change in the residential zones is a limit on the amount of impervious surface on pavement or buildings allowed on individual lots. Currently, there are no limits on paving, which means that an entire yard could be paved over. This is both environmentally and aesthetically undesirable. The draft code would require that at least 25 percent of the lot area be pervious. In addition, front yards must also maintain a minimum percentage of pervious area, based on the allowable size of the lot in the zone.

2. Most of the current nonresidential zones (TC, RPC, etc.) are being replaced by draft mixed-use development zones. These draft zones emphasize form and function, and allow for a greater mix of the types of uses permitted in a single development. As a part of this, some of the use definitions have been broadened to be more inclusive. These draft mixed-use zones include a mixed-use neighborhood commercial zone, intended primarily to provide the day-to-day needs of the local community; a corridor district zone, intended primarily for use along major transportation corridors where region-serving commercial and higher-density residential uses are appropriate; and a transit

district mixed-used zone which would allow high-density commercial and residential uses in close proximity to the Metro stations.

3. As part of the move towards encouraging development that is compatible with the City's vision, the draft ordinance proposes to reduce the allowable building heights in the Transit District and Corridor District zones from what is allowed in the current ordinance. Along with the height reductions, the draft ordinance proposes higher standards for architectural design, requires more public use space, and specific sidewalk design standards in all zones other than in the single unit detached areas.
4. The draft ordinance proposes to create 3 draft medium density residential zones that would allow for townhouses and other attached dwellings, as well as multi-unit developments. These draft zones allow densities of 10, 15 and 25 dwelling units per acre respectively.
5. All of the zones proposed in the draft ordinance are proposed to be mapped and there are no "floating" zones proposed. Euclidean zones can be applied by comprehensive zoning of the City, which is necessary as a part of this process. The proposed draft zoning map will accompany the proposed draft ordinance to be enacted at the same time the ordinance is adopted by the Mayor and Council.
6. The draft ordinance eliminates the nine different types of special development procedures that are currently in the ordinance. These include the Comprehensive Planned Development (CPD), Planned Residential Unit developments (PRU), Residential Townhouse development (RTH), the optional methods in the Town Center, Rockville Pike and O-2 zones, and the Preliminary Development Plan (PDP) procedure. In place of this variety, the draft code proposes a unified site plan review process, wherein the project review process is a function of the complexity of the proposal. Minor plan reviews can be approved at the staff level, as is currently allowed. More complex cases will require approval by the Planning Commission. The most complex proposals will require initial approval by the Mayor and Council prior to Planning Commission action on detailed portions of a project. This draft process requires more public outreach, especially for notification prior to formal filing.
7. The 27 special development procedure projects (*i.e.*, King Farm, Fallsgrave, Rockshire, New Mark Commons, etc.) that have been approved over the years, with the exception of RTH developments, will be placed in proposed Planned Development zones. Because each project has its own set of allowable uses and development standards, each of these projects will be placed in its own PD zone. The draft ordinance will identify each of these areas, and make reference to the Mayor and Council resolutions approving the projects, and any subsequent project approvals or amendments. The draft code will, however, require that any areas of these projects that do not have an approved development plan, or requests for a major amendment to the approved plan, will have to comply with the standards of the equivalent draft mixed-use zone set forth in the code, to the extent possible.

8. The draft code also proposes to create a public park zone, intended to be placed on all City-owned park land. This zone limits the uses to park and recreation uses, and some other compatible uses such as stormwater management facilities and limited special exception uses.
9. As a supplement to the draft ordinance, there is a proposed Landscaping, Screening and Lighting Manual that provides details on how to implement the requirements contained in Article 17 of the draft code. This manual, similar to the Environmental Guidelines, is intended to be adopted by resolution. This allows for flexibility so that if changes or amendments to the manual are needed over time, they can be done without a text amendment to the zoning ordinance.

The intent of this process has been to develop a draft, modern, user-friendly zoning ordinance that will provide the means for implementing the vision for future development in the City in accordance with the City's master plans. The RORZOR Committee agreed by consensus to forward this proposed zoning ordinance to the Mayor and Council for introduction. Not all of the committee members agreed on every point, but are in agreement that this document should be the basis for beginning the formal public review process. They are also in general agreement that this proposed draft ordinance is a significant improvement over the existing code. There will be many opportunities for the public to provide input during the public outreach period and more formally before the Planning Commission and Mayor and Council.

**COMPREHENSIVE ZONING MAP:** The draft zoning ordinance proposes to delete a number of the existing zones and create new zones for the City. As a consequence, in order to implement the draft ordinance the City must enact a comprehensive map amendment to apply the proposed zones throughout the City. These two actions must be processed concurrently. The proposed zoning map represents the RORZOR Committee's consensus agreement on where the proposed zones should be located.

#### Public Input Program

As noted above, the staff has been engaged in an extensive public outreach program in order to obtain input from the citizens and other parties who may be affected by the proposed ordinance. Staff has held three public forums, on October 23, and November 15, 2007, and January 10, 2008. In addition, staff has met with the following civic organizations:

Woodley Gardens Civic Association  
Twinbrook Citizen's Association  
Lincoln Park Civic Association  
East Rockville Civic Association  
College Gardens Civic Association  
West End Citizen's Association  
King Farm External Affairs Committee  
Fallsgrove Civic Association  
Rockshire Homeowners Association  
Woodley Gardens West Civic Association

In addition, the staff has also met with the following groups:

Board of Appeals  
Rockville Bicycle Advisory Committee  
Environmental Commission  
Town Center Action Team  
Recreation and Parks Advisory Board  
Traffic and Transportation Commission  
Rockville Economic Development, Inc. (REDI)  
Rockville Chamber of Commerce  
Land Use Attorneys  
Land Developers

A half-hour program introducing the proposed ordinance has been run frequently on Rockville Cable Channel 11. Articles have been run in Rockville Reports, which is sent to all City residents. This includes a major insert section in the January edition which includes the proposed zoning map along with summaries of the major proposed changes. A city-wide mailing was done prior to the second public forum to inform residents of the forum and the upcoming process. A second city-wide mailing was done in advance of the third public forum and this public hearing. The proposed ordinance text and the proposed rezoning maps have been posted on the City's web site, with an icon on the home page to take the user directly to the information.

#### Overview of the Proposed Ordinance Revision

One major goal of the proposed ordinance revision is to make the document more user-friendly. To that end, the ordinance has been provided with a table of contents to make it easier to navigate. In doing this, the attempt has been made to provide a more logical order for the articles, beginning with the general administrative provisions, definitions, and process and procedure provisions. Following that are the general provisions for accessories, the articles covering the various residential, commercial/industrial, and mixed use zones. Following are the special zones for public parks and special developments approved under the previous ordinance provisions.

Following the general zoning articles are the special exception standards, parking and loading requirements, sign standards, and enforcement provisions. The provisions for adequate public facilities requirements and the subdivision regulations complete the document. In addition, a Landscaping, Screening and Lighting Manual is attached to the ordinance. This document provides specific standards and requirements for how to accomplish the landscaping and lighting requirements set forth in the related article in the ordinance and in the site plan review process.

#### **STAFF COMMENTARY**

This section is divided into a number of general policy discussions, which will include recommendations or suggestions for further discussion. There are also technical corrections that should be done.

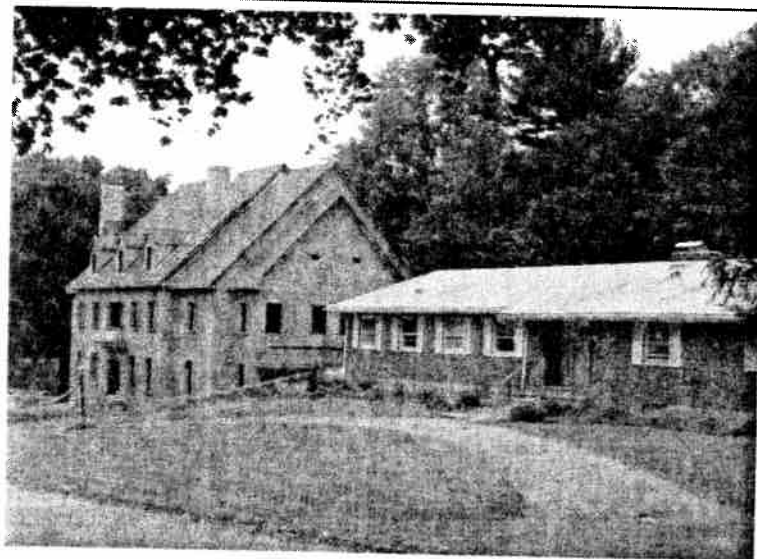
Attached to this report are a set of comments tables, noting the comments and corrections that have been assembled by the staff to date. Comments have come from the public, development interests, various boards and commissions, and the internal staff. We have also received letters and e-mails which have also been attached to this report.

### Policy Issues

There are a number of policy issues that have been raised during the public outreach effort. The staff will summarize them below, and suggest options for the Commission's consideration.

#### Mansionization

In brief, the RORZOR Committee recommended that in the R-60, R-75 and R-90 zones that building heights be limited to 32 feet, measured from the pre-existing grade at the front of the house to the peak of the gable. The Chief of Planning may allow up to 35 feet to the peak if it is determined that the extra height will not adversely affect the surrounding properties. Further, the floor area ratio (FAR) of the house should be limited to FAR 0.35, or 3,000 square feet if that is the larger number. The Planning Commission may allow up to FAR 0.5 through site plan review to assess compatibility with the surrounding development.



The house to the left has been substantially altered from its original form, which was architecturally similar to the house on the right

This has been a difficult issue, since it directly impacts many properties in the City. Proponents of the regulation believe that it will help maintain the character of the existing neighborhood by limiting houses that would be considerably larger than those on the surrounding properties. Some express concerns that such redevelopment will reduce their property value because of the

perceived impact on their property. Others, conversely, complain that redevelopment will raise the assessments of other homes in the vicinity, thereby raising their taxes. There are the more general comments that the new houses just don't "fit" in the established neighborhood.

Staff notes that suburban development is market-driven, and has been from the beginning. Builders provide what the dominant market demands. The post-World War II baby boom created a huge demand for modestly-priced "starter" housing. Areas such as Twinbrook, Maryvale, East Rockville, Hungerford and others typify this growth—modest ramblers and Cape Cods with 3 bedrooms, 1 ½ baths, maybe a dining room. These houses served the residents well for decades. They did not, however, come close to filling up the potential building envelope allowed in the zones.

Today, however, homebuyers are looking for more in a house—great rooms, media rooms, recreation rooms, larger bedrooms, more and larger bathrooms—in convenient locations. In recent years the real estate market has made it economical in many instances for people to buy an older home, demolish it, and build a new house with the amenities they desire. These houses may well approach the maximums for lot coverage and building height, resulting in a structure that may be three times the floor area and height of the neighboring homes.

The committee recommendation would have the effect of lowering the potential height of a house by about eight to ten feet over what is currently permitted (35 feet from the street grade to the mid-point of the gable; see diagram below). Thirty-two feet to the roof peak will allow for two stories with a reasonable roof pitch. The Chief of Planning may authorize a height up to 35 feet to the peak if compatibility is determined.

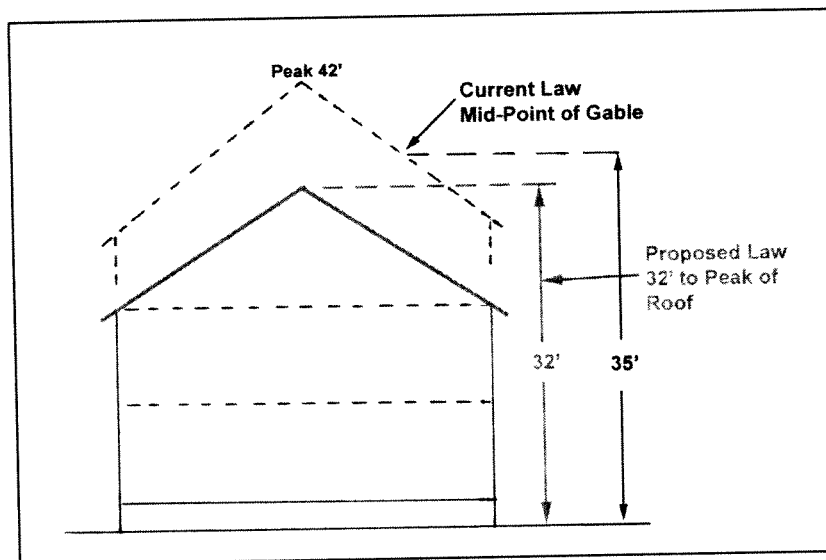


Diagram of Current and Proposed House Height Regulation

The FAR limitation is intended to work with the height limit to reduce the overall bulk of potential new construction. A typical 7,500 square foot lot in the R-60 Zone under today's



regulations (35 percent maximum building coverage) would allow a footprint of 2,625 square feet. Built to three stories, that could result in a floor area of 7,875 square feet. The proposed regulation would cap the floor area at 3,000 square feet. This would typically result in a two-story house with 1,500 square feet per floor. The Planning Commission could allow an FAR of up to 0.5. This would allow a floor area for our sample 7,500 square foot lot of 3,750 square feet. This could still be accomplished with two stories, and a footprint of 1,875 square feet, still under the 35 percent maximum building coverage.

This issue essentially boils down to a compromise between maintaining the character of existing neighborhoods that were developed well below the zoning allowances, and responding to today's market demands for larger homes with more features in convenient locations. The questions the Commission should address are:

- Are the committee's recommendations reasonable?
- Should they be applied generally, throughout the zoning districts?
- If the regulations should not be applied generally, are the neighborhood conservation district provisions in Article 14 appropriate as an avenue for addressing the issue on a neighborhood-by-neighborhood basis?
- Do we need an FAR limit if the issue is really height and bulk, rather than just size of living area?

#### Nonconformities

Article 8 of the proposed draft addresses the issues of nonconformities. There are two categories—nonconforming uses, and development standards nonconformities. A nonconformity is some aspect of the zoning regulation that was legal when it was established, but through changes in the code or zoning of the property that particular aspect is no longer allowed. In general, nonconformities are allowed to continue, but cannot be expanded or altered in a way that would violate the revised regulations. Ownership transfers do not affect the nonconformity. Any substantive modifications to that portion of the development that does not conform must reduce or remove the nonconformity.

A nonconforming use is an activity that occurs on a site that is no longer allowed. In such a case, the use can continue, but cannot be expanded. Under both the current code and in the proposed ordinance, if the nonconforming use ceases for more than 90 days, it is deemed to be abandoned and cannot be re-established. The proposed code does make an allowance for temporary suspension of the use during building renovations or if the property is being marketed for sale (see Sec. 25.08.04.b).

A development standards nonconformity involves issues with the actual improvements on the property. The proposed ordinance proposes to reduce the permitted building heights in the Town Center area as well as along Rockville Pike. In addition, the 30 degree layback slope between residential and commercial/industrial sites has an impact as well. As noted above, the proposed regulations for limiting the size of houses in the residential zones would reduce both height and limit floor areas. The proposed changes will make a number of existing buildings nonconforming, principally for building height. This has the potential for adversely affecting the value of the buildings, since they could not be replaced in kind if demolished or lost through fire

or other calamity. Particularly with regard to commercial buildings, being nonconforming can affect the ability of the owner to obtain insurance or be able to refinance the project.

A number of jurisdictions, when considering how to address the creation of nonconformities, have adopted an amortization program, wherein the properties are considered conforming for a specified number of years and can be replaced or rebuilt within that time frame. At the end of the amortization period, the building becomes nonconforming and subject to the all of the code regulations. Another approach that has been used is "grandfathering". This term is applied in cases where a property retains all of the development rights it had when originally developed in perpetuity.

The basic policy issue is how the City wishes to treat those properties that would become (or already are, since the layback slope already applies in many cases) nonconforming. Should buildings in the Town Center or other areas become nonconforming, be amortized, or grandfathered? Should those houses that have been built in recent years, and would exceed the proposed limitations, be made nonconforming?

Staff suggests that the Planning Commission consider the following:

- Do not make the layback slope requirement apply in cases where the use in the adjacent residential zone is not residential. This would mean commercial sites adjacent to uses such as churches, golf clubs, private schools and other institutional uses would not be subject to the layback slope. This would eliminate a number of potential nonconformities adjacent to Woodmont Country Club, for instance.
- Consider either an amortization period or grandfathering for existing buildings in the Town Center area and along Rockville Pike that would otherwise become nonconforming.
- There are a few multi-family apartment developments that have greater density than is allowed in the proposed residential, moderate-density zones. These include the developments along Lenmore Avenue in Lincoln Park and the ones along Blandford Street south of Mt. Vernon Place. Both of these projects have a density of about 43 units per acre. The Commission may want to consider recommending the addition of a new multi-family zone, RMD-44, to prevent these and similar projects from becoming nonconforming.
- The issue of nonconforming houses is sensitive. Most of the homes that would exceed the revised standards in the proposed code have been built in the last 5 or 10 years. Making them nonconforming in the short run probably will not have any immediate adverse impact. There will be a problem if the houses are demolished or destroyed, since they would not be able to be replaced in kind. On the other hand, meeting the new height and FAR standards might not be a great burden, since some redesign of the upper floor and roof pitch could bring the house into conformance. While there has been no definitive survey, staff believes that there are probably no more than two dozen houses that would be affected by the proposed changes. The Commission might consider the following: Homes that do not meet the revised development standards would become nonconforming. However, if the homes are severely damaged or destroyed through natural or accidental causes (fire, wind damage, etc.), they would eligible to seek a variance from the Board of Appeals as a hardship not resulting from the owner's actions

which could allow the homeowner to replace their house in kind. If the house is demolished by the owner, then any new construction would have to conform to the new standards.

### Home-based Business Enterprises

The current ordinance permits these uses (home occupations), with a limit of 20 percent or up to 300 square feet of the gross floor area of the dwelling unit, and no external evidence of the use other than a small sign. The RORZOR Committee decided to recommend regulations similar to the County's regulations regarding home occupations, but folding the "no impact" and "registered" types into one category of "Minor Home-based Business Enterprise". The committee felt that the real impact of this use was the potential traffic and parking associated with the use. There was less concern about what transpired within the dwelling or how much area it took up. A level of 20 visits per week, and 5 per day, was considered acceptable, along with the other regulations in the proposed code. HBBE's that exceed the 20 visits per week/5 per day, or those that need up to two non-resident employees would have to apply for a special exception.

A number of comments have been received regarding this provision (see comments tables). Most have focused on the requirement to maintain a log of visitors (for enforcement purposes), which they consider a violation of privacy, especially in the case of medical or legal professionals. Some have also stated that the registration requirement is onerous and unnecessary. Finally, City staff have noted that the proposed regulation requires that the HBBE be "subordinate and incidental" to the main dwelling, but does not specify an area limit. The Commission may wish to suggest changes as follows:

- The provision requiring the maintenance of a log of visits does not specifically require that the names of the visitors be recorded. However, the language could be clarified to record only the number of visits, or it could be left to administrative procedures needed to implement the new code.
- The provision regarding what constitutes "subordinant and incidental" could be revised to add a limit to the area that can be utilized by the HBBE. Staff suggests that no more than 49 percent of the gross floor area of the dwelling be allowed for the use.
- Leave the registration procedure as is. It is no more onerous than having to file for a building permit for an accessory building, and gives the City the means to investigate any complaints that may arise.

### Impervious Surface Limits in Residential Zones

The committee has recommended imposing limits on impervious surfaces in the residential zones for two primary reasons—Maintain the essential residential character of the neighborhoods, especially the front yards; and reduce the potential environmental impact from uncontrolled stormwater runoff. The regulation is in two parts; the first requires that the overall pervious area on a lot be no less than 25 percent of the lot area. Impervious surfaces include essentially any improvement that does not allow for the percolation of rain water into the ground. This includes the main house and any accessory buildings; patios; driveways; decks; swimming pools; and any other structure with a roof or floor, other than play equipment or other decorative structures.

In addition to the overall requirement to maintain a minimum pervious area, the proposed ordinance also regulates the amount of impervious surface that can be in the front yard. This regulation provides a sliding scale from 40 percent maximum impervious in the R-60 Zone down to 10 percent in the R-400 Zone. This provision is primarily intended to prevent the paving over of entire front yards, while allowing enough area in the smaller-lot zones to provide two off-street parking spaces in those cases where it is not feasible to place a driveway along side the house due to minimal side setbacks.

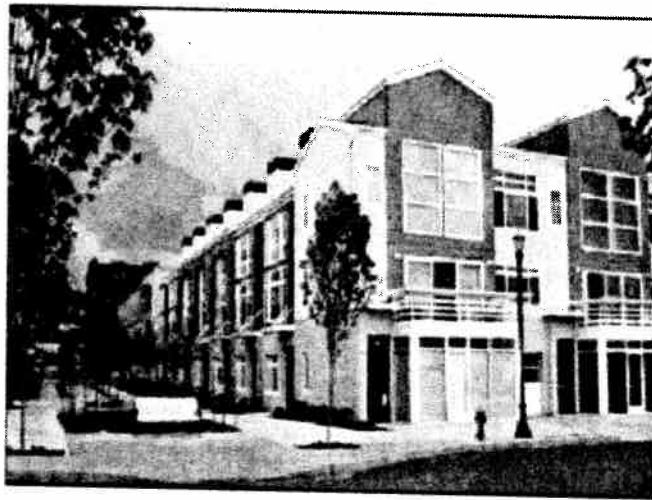
The issue with this provision is administrative. In order to comply with these new regulations, a homeowner is going to have to provide the City with a diagram of their property with sufficient detail and accuracy to assure compliance with the new standards. Currently, no permits are required for installing paving on a lot, since driveways, patios and the like are not currently deemed to be structures. A permit is required to install a driveway apron in the public right-of-way, but that does not cover any paving on the private lot. The City is going to have to make a big effort to inform all the homeowners about the change in permitting requirements, since until now no paving permits have been required.

While some homeowners have a wall check or other type of survey that they received when they bought their house, many others do not. In those cases, they may have to get a survey done, at considerable expense, in order to file for any improvement on their lot. The City's GIS data may be of some help, but it may not show small improvements such as patios or sheds, and it does not show driveway paving, except on the aerial photos. Also, the dimensions on the GIS are usually about plus or minus five feet, which is going to be a problem where proposed improvements approach the limits set forth in the zone.

A related issue is going to be one of enforcement. In general, our inspectors cannot trespass on private property without permission or a warrant. Checking on compliance with the impervious surface regulations, particularly in rear yards, is going to be difficult. The aerial photos may be the only course of action in some cases, and they are only flown every couple of years.

### **Mixed Use Zones**

The centerpiece of the proposed ordinance is the introduction of mixed-use zones to the City. In the past, zoning has been essentially exclusionary, i.e., only those uses specifically listed are allowed. Those not listed are not permitted. The proposed mixed-use zones would replace a number of the existing commercial and industrial zones, including the Rockville Pike zones, the Town Center Zones, and the I-3 Industrial Park zone. The new zones include some design guidelines intended to foster a more pedestrian-friendly commercial environment, better building design, and more flexibility in the types of uses that can be provided. Significantly, there are no floor area ratio (FAR) limits proposed, unlike today's regulations. This means that whatever can be built within the allowable envelope is permitted. It is up to the developer to determine how the site will be developed – with or without structured parking, the range of uses provided, etc. What will actually be allowed to proceed through the development process will be determined in part by the Adequate Public Facilities Ordinance (Article 20), which requires demonstration of the adequacy of water, sewer, school capacity, public safety and traffic capacity.



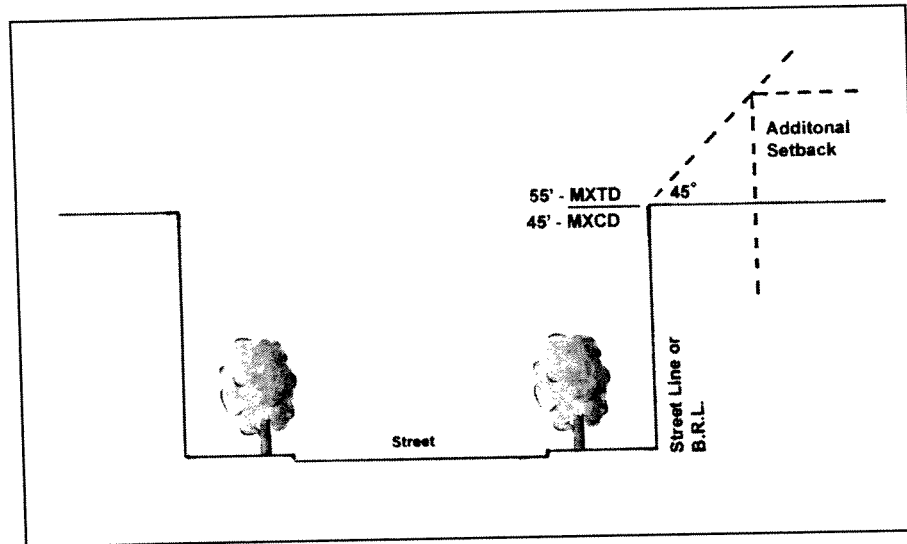
Mixed Use Infill Development  
Portland, OR

The committee consensus on the mixed-use zones was that they should employ high consistent design standards that result in attractive development that is pedestrian-friendly. This meant a lower-scale presence along the sidewalks with public spaces along the way where people can pause, sit, or recreate.

The initial staff proposal considered by the RORZOR Committee was for five new mixed-use zones, ranging from high-density (Mixed-use Transit District, or MXTD) to low-density transitional (Mixed-use Transitional, or MXT) zones. The mixed-use zones include a set of design guidelines, both general and specific to the zones. These include provisions regarding building materials, fenestration (window arrangement), location of parking, and minimum façade heights.

Through their deliberations, the committee recommended the creation of a sixth mixed-use zone, Mixed-use Business (MXB). This zone would allow for the retention of most of the service commercial and industrial uses between North Stonestreet Avenue and the railroad/Metro tracks. Building height would be allowed up to 55 feet, sufficient for up to four stories.

The committee has recommended that the maximum height in the MXTD Zone be 120 feet. This compares with an allowable height of up to 235 feet in the current TC-4 Zone under the optional method. Maximum height in the MXCD (Corridor District) Zone would be 75 feet. In addition to setting a maximum height, the committee also recommended in these two zones that there be upper story setbacks above specified heights. The committee's concerns were that allowing maximum building height at the edge of the sidewalk would not be pedestrian friendly, both from an overbearing presence, and because tall buildings would create substantial shadows that would be particularly uncomfortable in winter (see diagram below).



Upper Story Setback Diagram  
MXTD and MXCD Zones

The upper story setback requirements essentially say this:

- Building heights at the minimum setback line are allowed up to 55 feet in the MXTD Zone and 45 feet in the MXCD Zone. Above these heights, any additional building height up to the maximum must be set back at a 1:1 ratio from the upper story setback height line. This setback can be achieved either by setting the upper stories back, or by setting the entire building back from the setback line such that the top of the building is at the layback slope as measured from the maximum façade height at the minimum setback.

A number of comments received have stated that the upper story setback requirement leaves commercial construction in a kind of nowhere land. Building heights up to about 4 stories can be economically stick-built, while buildings above 8 stories or more are economical to build with steel and concrete. That in-between area makes for a difficult choice. In addition, by not allowing the buildings to have a constant floor size, the elevator and core designs become inefficient.

Comments have been received objecting to not permitting auto repair and service industrial uses in the MXT Zone. There are a number of such businesses in the area east of North Stonestreet Avenue, which would become nonconforming under the new zone (they would be permitted in the MXB Zone on the west side). As nonconforming uses, they may continue but, as noted above, being a nonconforming use may create some difficulties for the business. The adopted East Rockville Neighborhood Plan makes the following recommendations regarding this area:

*Because of the existing I-1 zoning, the Stonestreet corridor is currently home to many service industrial businesses that serve the community. It is the intent of this Plan that these existing businesses not be displaced by zoning changes. The preferred approach is for existing legal I-1 uses and structures be granted grandfathered status, with incentives*

*to achieve an enhanced grandfathered status by making property improvements in keeping with the Master Plan objectives. The physical appearance and operation of businesses that wish to continue operations in the corridor should be upgraded in order to assist in the desired change of character. A combination of consistent code enforcement and education, economic incentives and zoning changes should be developed and implemented to further this goal. The implementation strategy, as well as the exact zoning mechanism, to accomplish the desired change in character will be developed after the adoption of the Neighborhood Plan. This will be done with the participation of the residential and business community in the East Rockville area.*

If the Commission wishes to allow these uses within the intent of the master plan recommendation, staff suggests the following: Any of these uses that exist as of the date of adoption of the new ordinance should be given an amortization period (staff suggests 10 years), during which time they would be considered a permitted use. The development standards of the MXT Zone for height and setbacks would apply. At the end of the amortization period, the uses would become nonconforming. They would be able to continue in business, but are then subject to the requirements for nonconforming uses set forth in Article 8. Other options include grandfathering the uses or zoning the area MXB.

#### Design Standards

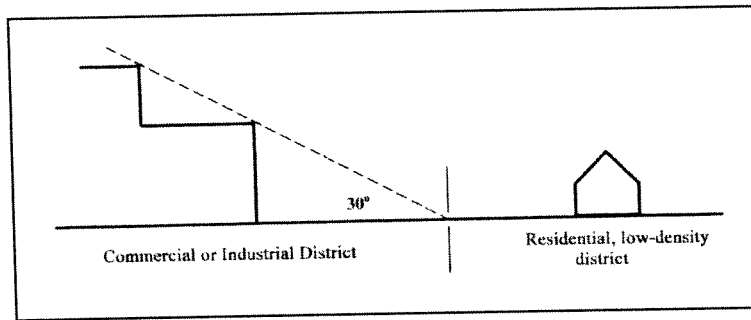
Comments have also been received regarding the proposed design standards and guidelines. Those objecting have said that these proposed design controls will hinder creativity of design and appearance, resulting in kind of sameness in appearance that can become uninviting over time.

The proposed requirement regarding the minimum public use space requirements of 20 to 25 percent of the lot area has also received comment. Developers contend that losing 20 percent of their lot area is a substantial burden. Staff notes that there is a provision in Article 17 that allows for a fee-in-lieu program wherein development projects could contribute to a fund that the City can use to assemble substantial open space which might better-serve the needs of the public.

Another issue that has been commented on is the layback slope requirement between commercial/industrial uses and single-unit detached residential development. Staff notes that this provision is already in the current code, so it is not a new proposal. The draft document does not clearly distinguish between residential development, and recommended residential development (i.e., zoning) as shown in the master plan. Comments have also been received that it would be easier to calculate the slope at a ratio of 1:3, rather than a 30-degree angle. Also questioned is the need for the layback slope between the MXT Zone and adjacent residential development. The Commission should consider the following:

- With regard to the angle of the slope, staff recommends retaining the 30-degree angle. While first-blush logic would seem to say that 1 in 3 is the same as 30 degrees, the geometry says that a 1 in 3 slope is only about 18.5 degrees, which would be a substantial additional burden on commercial development and not consistent with the current requirement.

- Exclude the MXT (Mixed-use Transition) Zone from the layback slope requirement. The building height limit in this zone is only 35 feet, which is equivalent to the height allowed in the adjoining residential zones.
- As noted earlier with regard to nonconformities, consider exempting the layback slope requirement in cases where the use in the residential zone is not residential.



Proposed Layback Slope Provision

### Special Zones

Article 14 of the proposed ordinance encompasses several special zones or provisions not otherwise addressed. These are the historic district zones, the neighborhood conservation districts, a new Public Park zone, and a series of Planned Development (PD) zones.

The historic district zones are a form of overlay zone, in that the underlying zone is not changed by application of the historic district designation. This is the current procedure. The changes proposed in the proposed ordinance involve procedural matters in how properties can be nominated for historic consideration. New language has been added to restrict a property owner from modifying a potential historic site during the consideration process. In the past an owner could engage in maintenance and repair not requiring a building permit for items such as window replacements and new siding or roofing, even while the site was being considered for designation. The process for obtaining a Certificate of Approval to alter a designated site is also spelled out.

The proposed ordinance would enact the provisions of the Lincoln Park Neighborhood Conservation District, as set forth in the master plan. However, a process is proposed to allow other neighborhoods or areas to apply for a neighborhood conservation district in cases where there is the desire to establish development standards reflecting the uniqueness of the area. Designation requires the consent of 30 percent of the property owners affected to begin the process, and written consent of at least 75 percent of the owners in order to enact the district.

The RORZOR Committee has recommended the creation of a new Public Park Zone. It was felt that apply such a zone would give the city residents more assurance that the City would not sell off park properties for private development. Today, all of the parks are zoned whatever the immediately adjoining zoning is, principally single family residential. One item, not shown in the proposed zoning map, is a committee recommendation to place the Park zone on all of the recreation fields of the public schools in the City. One issue here is where to draw the



boundaries of the zone, since in most cases there will be no underlying property lines. The Park zone would also be applied to any M-NCPPC park property lying with the City.

The Recreation and Parks staff, in consultation with the consultants preparing the Park, Recreation and Open Space (PROS) plan have recommended modifications to the proposed text. These are shown as a part of Attachment 5.

In the current ordinance, there are a variety of special development procedures that have been developed over the years in order to accomplish better and more varied types of development than were possible under the conventional zones. These procedures include the Comprehensive Planned Development (such as King Farm), Planned Residential Unit developments (such as Rockshire), Preliminary Development Plan developments (such as Rockville Town Square), and more. In many of these cases, the approved development is not consistent with the underlying base zone. This can create problems and confusion with property records and financing institutions when the actual development is not consistent with either the uses or development standards in the underlying zones.

In order to help overcome these problems, and confirm these projects as conforming, the proposed draft establishes a series of Planned Development (PD) zones, one for each of these special developments. Each PD zone enacts the Mayor and Council resolution approving the original project, along with any subsequent approved amendments. An appendix to the new ordinance will codify each of these resolutions for future reference.

In general, each of the projects may develop in accordance with the approved standards and requirements. This includes uses, setbacks, building heights, park dedications, and any other standard set forth. However, if a developer proposes to amend the approved plan in a substantive manner, then they will have to apply for a project plan amendment and be subject to the Level 4 approval procedure set forth in Article 7. This means that the Mayor and Council will have to approve the amendment. The Planning Commission will consider any subsequent site plans. Language has been included that will require development under the amendment to comply with the standards of the designated equivalent new zone to the extent possible.

#### **Parking and Loading**

Article 16 provides the standards and requirements for parking and loading of vehicles in connection with the various land uses. In general, the parking requirements for automobiles are the same as in the current code. There are some technical corrections that need to be made to the tables. One new provision concerns restaurants that have extensive bar areas exceeding 10 percent of the patron use area. In these cases a parking space is required for every 15 square feet of bar patron area exceeding the 10 percent area.

One item that the Commission might consider is the creation of a Parking Manual, similar to the Landscaping Manual. A lot of the design details, such a maximum grades, paving specifications, loading area design, and parking structure design, are not technically zoning matters. In addition, most of the bike parking standards and requirements could be included in the manual. Such a manual would have to be developed by the Department of Public Works, in consultation with the Community Planning staff.

**Public Use Space, Landscaping, Screening, Lighting, Sidewalks and Shadows**

The regulations in Article 17 are intended to make the built environment more inviting to the public. They include provisions for how public use space may be conveyed to the public, landscaping and screening provisions, lighting regulations, and sidewalk design standards. In general, the landscaping, buffering and screening provisions, along with the lighting standards, are contained in the Landscaping, Screening and Lighting Manual, which is appended to the proposed ordinance. In presenting recommendations to the RORZOR Committee, the staff noted that by placing these regulations in a separate manual, it would be easier and more efficient to modify the provisions as experience and data are gained over time, much in the same manner as with the current Environmental Guidelines. Modification can be done by resolution of the Mayor and Council, rather than having to go through the zoning text amendment process. The regulations in the Manual have been drawn principally from similar regulations from other jurisdictions in the area.

A number of comments have been received regarding the proposed sidewalk design standards (Sec. 25.17.05). The committee's goal was to try and match the sidewalk widths to the character of the adjoining street. A local street with curbside parking or a bike lane could have a narrower sidewalk than streets with no parking or bike lane along the curb. Note that the proposed standards do not apply in the single-unit detached residential areas.

The proposed standards presume the installation of street trees, with a minimum seven-foot wide tree lawn/buffer area next to the curb. The clear path is that area that must remain unobstructed to the pedestrian at all times for safe, unencumbered passage. Staff has not found any definitive studies that provide any kind of "level of service" guideline for sidewalk traffic. The committee engaged in some hands-on activities to try and help guide them in their discussions. In general, a clear path of eight feet seems to be the comfortable minimum for busy urban situations. This width generally allows room for four people abreast.

The amenity/buffer area proposed in the chart allows extra width to provide additional comfort and security along busy streets. Its location would be the subject of site plan review—whether it should be along the curb to provide added pedestrian setback from very busy highways, or along the front of the buildings, where outdoor cafes or other pedestrian amenities could be provided. Some of this amenity/buffer area could count towards the public use space requirement in the mixed-used zones if it is on private property.

The substantive issue here is whether or not the City should set absolute standards for sidewalk widths, given the variables that exist within the City. Normally, sidewalks are built within the public right-of-way and maintained by the City. However, in many cases there will not be sufficient right-of-way to provide the full width sidewalk as set forth in the proposed standard.

Total redevelopment of the adjoining property would provide an opportunity for gaining the additional width through the project review process. If the redevelopment does not encompass the entire block, though, there could be disjointed connections between the new sidewalk and the existing ones. A lot also depends on the actual character of the street, and the uses facing it. The relevant master plan may also weigh in on where major pedestrian corridors should be that would require wider sidewalks in some instances.

The Commission may wish to consider establishing minimum standards for the width of the tree lawn/buffer area and the clear pedestrian path. These would be a minimum of seven feet for the tree lawn/buffer area, and six feet for the minimum clear path. Allow the approving authority some flexibility to set the sidewalk widths dependent on a case-by-case basis. In addition, developing a set of sidewalk standards and guidelines that could be added to the current "Standards and Details for Construction" manual already maintained by the Department of Public Works would be useful.

The shadow regulations (Sec. 25.17.06) have been adapted from the existing provisions in the Town Center zones. The provision requiring at least 2 hours of sun on parks, public use spaces and green areas during the winter solstice is a new recommendation from the Committee.

### Signs

Article XI of the current ordinance, sometimes referred to as the Sign Ordinance, was given a comprehensive review and revision by the City in 2004. As such, the language contained in the proposed ordinance is essentially the same as the current provisions. As presented in the proposed draft ordinance, the regulations relating to how sign areas are to be measured are located in Article 3, Sec. 25.03.03, Terms of Measurement and Calculation. Staff recommends that these provisions be moved into Article 18 for the convenience of the user, having all sign data in one location. A cross-reference would be placed in Article 3.

### Adequate Public Facilities

Article 20 sets forth the provisions for adequate public facilities when reviewing any new development or redevelopment in the City. The text, with one addition, is the same as the current language. Subsection 25.20.02.d is new language that has been added. In cases where there is a current development constraint, projects may be reviewed and given conditional approval if the Approving Authority finds that the restricted facility may become available within two years. Such projects will be placed in a queue maintained by the Chief of Planning, with the queue position based on the date of action by the Approving Authority. Two one-year extensions may be granted. At the end of the conditional approval period, if the restriction has not been relieved, then the application becomes void.

### Plats and Subdivision Regulations

Article 21 constitutes the Subdivision Regulations, which provides for the processing and creation of record lots within the City. Most of the language from the existing ordinance has been incorporated into this article. The modifications principally involve reorganizing the order of the text. This was done to try and make it flow in an order consistent with how applications are processed.

The current code has separate provisions for cluster development and variable lot size development in the Special Development Procedures article. In reviewing these provisions, they are almost identical in their language and provisions. The proposed ordinance combines these

into one cluster development subdivision option (Sec. 25.21.14). New provisions have been added that provide density caps in the various zones. The intent is to not allow densities substantially greater under the cluster provision than could be achieved under the conventional standards.

Based on comments received, the following change is suggested:

- Tie the preliminary plan approval procedures to the site plan review process set forth in Article 7. The Planning Commission is the approving body for subdivisions, and it is desirable that the general layout of the buildings and other improvements connected to the subdivision be reviewed at the same time.

### Zoning Map

In order to make the new ordinance effective, the new zones proposed in the draft ordinance must be applied through a comprehensive rezoning of the City. The proposed zoning maps that accompany the draft ordinance illustrate where the new zones are proposed to be applied, and where the existing zones will be reconfirmed. Both the final version of the ordinance and the zoning map must be adopted together in order to be consistent with each other.

In general, the committee attempted to apply the revised zoning in a manner generally consistent with the purpose and intent of the current zones; i.e., the highest density zones would be located in the Town Center and near the Twinbrook Metro station; the Corridor District mixed use zone would be applied along Rockville Pike and Frederick Road; the Mixed Use Employment District would be applied in the areas now zoned for office and industrial park uses, and so forth. These are generally in line with the development recommendations of the Comprehensive Master Plan for the City.

As noted in the discussion above regarding the policy issues with regard to the proposed ordinance, the uses allowed are broadened in most cases, while the allowable densities have been reduced in some of the non-residential zones. Those areas surrounding the Town Center that are currently in either the O-2 Zone or the C-T Zone have been recommended for the MXT transitional mixed use zone.

In general, those areas of the City that are currently in one of the single-unit detached residential zones will remain in those zones. Some areas will be subject to the proposed regulations regarding building height and floor area limitations. All of them will be subject to the impervious surface limitations. Those residential areas that are subject to one of the special development procedures will be placed in one of the new Planned Development zones. In those cases, the development standards will be governed by regulations contained in the resolution approving the project and any subsequent amendments. Most of these areas have homeowner's associations that include architectural review provisions. These will continue to provide the first level of approval for any new development or redevelopment for these areas.

The designation of two of the residential zones are proposed to be changed. The current R-S (Residential-Suburban) zone would be redesignated R-200. The current R-E (Residential-Estate) zone would become the R-400 Zone. These changes are to bring the zones into conformity with

the other residential zones, where the number designation is a shorthand reference to the minimum lot size (R-60 = 6,000 square feet; R-75 = 7,500 square feet; etc.)

Those special developments that were approved under the present RTH, townhouse procedure will be placed in the new RMD-10 Zone. This zone includes most of the development standards for townhouses that are contained in the current code.

#### Technical Corrections to the Proposed Zoning Map

In going back over the proposed zoning maps, staff has identified a number of corrections that need to be made. These are as follows:

1. Map C-2: A portion of Watts Branch Park, just east of Aster Boulevard, should be placed in the Public Park Zone.
2. Map C-4: A portion of the area to be zoned I-L at the intersection of Taft Street and Gude Drive needs to be included. Also, a small corner of the property recommended for the RMD-10 zone on Old Baltimore Road is incorrectly shown in the R-90 Zone.
3. Map D-2: The property behind the residential lots facing Currier Court, Bentley Court, and Loch Ness Court should be placed in the Public Park Zone.
4. Map D-3: The residuals of what was once Church Street, on the west side of South Adams Street, should be placed in the R-90 Zone. The property at 105 South Washington Street should be placed in the R-90 Zone. A small portion of the property on the west side of First Street at Veirs Mill Road should be placed in the RMD-25 Zone.
5. Map D-4: Lot 20, Block 6 of Burgundy Estates (7 Templar Court), should remain in the R-60 Zone.
6. Map D-5: The corner property at the intersection of Marcia Lane and Linthicum Street should be placed in the Public Park Zone.
7. Map E-3: The unimproved portion of Ritchie Parkway south of West Edmonston Drive should be placed in the Public Park Zone. The right-of-way of Ritchie Parkway north of West Edmonston Drive is very wide, with driving lanes on either side of a small stream valley. Typically, active roadways do not have zoning depicted on them. The Commission may wish to consider recommending that the area between the driving lanes be placed in the Public Park Zone.
8. Map F-4: A strip of Metro/CSX right-of-way should not have zoning depicted. The map shows both Public Park Zone and PD-TC Zone in this area.
9. As noted previously, the RORZOR Committee voted to recommend that the athletic field portion of the public schools sites be placed in the Public Park Zone. If the Planning Commission concurs with this recommendation, the zoning map will need to be modified accordingly.

#### Attachments

